

AMENDED IN SENATE APRIL 4, 2002  
AMENDED IN SENATE MARCH 18, 2002

**SENATE BILL**

**No. 1361**

**Introduced by Senator Brulte**

February 6, 2002

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An act to ~~amend Sections 1203.5 and 1203.6 of, and to add Section 1203.61 to, add and repeal Section 1203.61 of the Penal Code, and to amend Section 270 of the Welfare and Institutions Code,~~ relating to probation officers, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1361, as amended, Brulte. Probation officers.

Existing law provides for the offices of adult probation officer, assistant adult probation officer, and deputy adult probation officer. Existing law provides that an adult probation officer shall be appointed and removed for good cause by the senior judge or a majority of judges of the superior court, as applicable.

This bill would create the office of chief probation officer ~~to be appointed and removed for good cause by the senior judge or majority of judges of the superior court, except that in Riverside County and San Bernardino County, the Chief Probation Officer would~~ *Counties, to be appointed and removed for good cause by a majority of the Riverside County and San Bernardino County Boards of Supervisors, respectively. These provisions would be repealed on January 1, 2006.* By requiring local officials to perform a higher level of service, this bill would impose a state-mandated local program.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

*The bill would provide that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~ <sup>2/3</sup>. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. ~~Section 1203.5 of the Penal Code is amended to~~  
2     ~~read:~~  
3     ~~1203.5. The offices of chief probation officer, adult probation~~  
4     ~~officer, assistant adult probation officer, and deputy adult~~  
5     ~~probation officer are hereby created. The probation officers,~~  
6     ~~assistant probation officers, and deputy probation officers~~  
7     ~~appointed in accordance with Chapter 2 (commencing with~~  
8     ~~Section 200) of Division 2 of Part 1 of the Welfare and Institutions~~  
9     ~~Code shall be ex officio adult probation officers, assistant adult~~  
10    ~~probation officers, and deputy adult probation officers except in~~  
11    ~~any county or city and county whose charter provides for the~~  
12    ~~separate office of adult probation officer. When the separate office~~  
13    ~~of adult probation officer has been established he or she shall~~  
14    ~~perform all the duties of probation officers except for matters~~  
15    ~~under the jurisdiction of the juvenile court. Any adult probation~~  
16    ~~officer may accept appointment as a member of the Board of~~

~~Corrections and serve in that capacity in addition to his or her duties as adult probation officer and may receive the per diem allowance authorized in Section 6025.1.~~

~~SEC. 2. Section 1203.6 of the Penal Code is amended to read:~~

~~1203.6. The chief probation officer and the adult probation officer shall be appointed and may be removed for good cause by the judge of the superior court or, in a county with two superior court judges, by the judge who is senior in point of service. In the case of a superior court of more than two judges, a majority of the judges shall make the appointment, and may effect removal.~~

~~The salary of the probation officer shall be established by the board of supervisors.~~

~~The adult probation officer shall appoint and may remove all assistants, deputies and other persons employed in his or her department, and their compensation shall be established, according to the merit system or civil service system provisions of the county. If no merit system or civil service system exists in the county, the board of supervisors shall provide for appointment, removal, and compensation of these personnel.~~

~~This section is applicable in a charter county whose charter establishes the office of adult probation officer and provides that this officer shall be appointed in accordance with general law subject to the merit system provisions of the charter.~~

~~SEC. 3.~~

~~SECTION 1. The Legislature finds and declares all of the following:~~

~~(a) The implementation of the realignment of the fiscal and operational responsibilities for the state's trial courts from counties to the state, pursuant to the Lockyer-Isenberg Trial Court Funding Act of 1997, has highlighted imperfections in the probation governance structure.~~

~~(b) Under trial court realignment, overall management and budgetary responsibility for probation services remain with counties, but in 52 of the 58 counties, the appointment authority for the chief probation officer resides with the court, a state funded entity.~~

~~(c) In August 2000, the Judicial Council and the California State Association of Counties convened a Probation Services Task Force to study a myriad of issues impacting probation services, including the governing structure, and to examine these issues~~

1 *comprehensively and make recommendations to enhance*  
2 *probation service delivery.*

3 *(d) Pending the final report by the Probation Services Task*  
4 *Force, local circumstances in Riverside and San Bernardino*  
5 *County call for a more expeditious solution to the bifurcated*  
6 *governance situation. This interim solution provides an*  
7 *opportunity for the Probation Services Task Force to study*  
8 *transition issues and comprehensively evaluate these issues in*  
9 *relationship to any potential recommendation of the task force*  
10 *relating to the appointment authority.*

11 *(e) It is the intent of the Legislature to allow the Riverside and*  
12 *San Bernardino County Boards of Supervisors, only, to assume*  
13 *appointment authority of the chief probation officer in order to*  
14 *provide critical and useful information to the Probation Task*  
15 *Force regarding transition and governance issues that arise out of*  
16 *the restructuring of the appointment process. It is also the intent*  
17 *of the Legislature to improve the decisionmaking and final*  
18 *recommendations of the Probation Services Task Force.*

19 SEC. 2. Section 1203.61 is added to the Penal Code, to read:

20 1203.61. *(a) Notwithstanding Section 1203.6, the Riverside*  
21 *County Chief Probation Officer and the San Bernardino County*  
22 *Chief Probation Officer, as defined by local ordinance, shall be*  
23 *appointed and may be removed for good cause terminated by a*  
24 *majority of the Riverside and San Bernardino County Boards of*  
25 *Supervisors, respectively. The presiding judge of the superior*  
26 *court in each county shall concur with the appointment of the chief*  
27 *probation officer for that county and if necessary, may provide*  
28 *justification to the board of supervisors for termination.*

29 *(b) On or before January 30, 2003, the Boards of Supervisors*  
30 *of Riverside and San Bernardino Counties and the superior courts*  
31 *in both of those counties shall evaluate and report to the Judicial*  
32 *Council and the California State Association of Counties on the*  
33 *implementation of this change in appointment authority, including*  
34 *a discussion of governance issues, implementation issues,*  
35 *structural inefficiencies, and other program issues.*

36 *(c) This section shall remain in effect only until January 1,*  
37 *2006, and as of that date is repealed, unless a later enacted statute,*  
38 *that is enacted before January 1, 2006, deletes or extends that date.*

39 ~~SEC. 4. Section 270 of the Welfare and Institutions Code is~~  
40 ~~amended to read:~~

1     ~~270. Except as provided in Section 69906 of the Government~~  
2 ~~Code and Section 1203.61 of the Penal Code, there shall be in each~~  
3 ~~county the offices of probation officer, assistant probation officer,~~  
4 ~~and deputy probation officer. A probation officer shall be~~  
5 ~~appointed in every county.~~

6     ~~Except as provided in Section 69906 of the Government Code~~  
7 ~~and Section 1203.61 of the Penal Code, probation officers in any~~  
8 ~~county shall be nominated by the juvenile justice commission or~~  
9 ~~regional juvenile justice commission of the county in the manner~~  
10 ~~as the judge of the juvenile court in that county shall direct, and~~  
11 ~~shall then be appointed by the judge.~~

12     ~~The probation officer may appoint as many deputies or assistant~~  
13 ~~probation officers as he or she desires, but the deputies or assistant~~  
14 ~~probation officers shall not have authority to act until their~~  
15 ~~appointments have been approved by a majority vote of the~~  
16 ~~members of the juvenile justice commission, and by the judge of~~  
17 ~~the juvenile court. The term of office of each deputy or assistant~~  
18 ~~probation officer shall expire with the term of the probation officer~~  
19 ~~who appointed him or her, but the probation officer, with the~~  
20 ~~written approval of the majority of the members of the juvenile~~  
21 ~~justice commission and of the judge of the juvenile court, may, in~~  
22 ~~his or her discretion, revoke and terminate any appointment at any~~  
23 ~~time.~~

24     ~~Except as provided in Section 69906 of the Government Code~~  
25 ~~and Section 1203.61 of the Penal Code, probation officers may at~~  
26 ~~any time be removed by the judge of the juvenile court for good~~  
27 ~~cause shown; and the judge of the juvenile court may in his or her~~  
28 ~~discretion at any time remove any probation officer with the~~  
29 ~~written approval of a majority of the members of the juvenile~~  
30 ~~justice commission.~~

31     ~~SEC. 5.~~

32     ~~SEC. 3.~~ Due to unique circumstances present in Riverside  
33 County and in San Bernardino County with respect to probationers  
34 and the need for their effective supervision, the Legislature hereby  
35 finds and declares that a general statute cannot be made applicable  
36 within the meaning of Section 16 of Article IV of the California  
37 Constitution. Therefore, the special legislation contained in  
38 ~~Sections 3 and 4~~ of this act is necessarily applicable only in  
39 Riverside County and San Bernardino County.

~~SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.~~

*SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.*

*SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:*

*In order for the Probation Task Force to have time to evaluate the transition of the appointment authority from the courts to a county board of supervisors and make recommendations to improve the governance of probation services, it is necessary that this act take effect immediately.*